

# Traffic Safety Facts Laws

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## Repeat Intoxicated Driver Laws

### Key Facts

Motor vehicle crashes are the leading cause of death for Americans aged 4 through 33. In addition motor vehicle crash injuries are a major health care problem in the United States, with alcohol-related crashes a substantial part of this problem.

- Alcohol was involved in 41 percent of fatal crashes and 7 percent of all police-reported crashes in 2001.
- Alcohol-related crashes in the United States cost the public more than \$50 billion in 2000, and 75 percent of these costs occurred in crashes where a driver or non-occupant had a BAC of .10 or higher.
- Every 30 minutes, someone is killed in an alcohol-related crash.
- Impaired driving is the most frequently committed violent crime in the United States.
- About one-third of all drivers arrested or convicted of driving while

intoxicated or driving under the influence of alcohol (DWI/DUI) are repeat offenders.

- Drivers with prior DWI/DUI convictions are over-represented in fatal crashes and have a greater relative risk of involvement in a fatal crash.

In 1998, as part of the Transportation Equity Act for the 21st Century (TEA-21) Act, a new Federal program was established to encourage States to address the problem of the repeat intoxicated driver.

### Laws that Address the Repeat Intoxicated Driver

Many States have enacted laws focusing on the repeat intoxicated driver. These laws can be delineated into one of four general categories:

- **Licensing Sanctions:** Most States suspend or revoke the license of repeat intoxicated drivers for a longer period than they do for first offenders.
- **Vehicle Sanctions:** Some States impound or immobilize the vehicles of repeat intoxicated drivers; some States require the installation of an ignition interlock system on the offender's vehicle (which prevents a vehicle from starting if the driver's blood alcohol concentration is above a pre-determined threshold).
- **Addressing Alcohol Abuse:** Some States require that repeat intoxicated drivers be examined to determine their degree of alcohol abuse and/or undergo appropriate treatment.
- **Mandatory Sentencing:** Most States impose a mandatory

minimum imprisonment and/or a community service sentence on repeat intoxicated drivers.

### Effectiveness of Repeat Intoxicated Driver Laws

Research has shown that driver-licensing sanctions have a significant impact on the problem of impaired driving. Licensing sanctions imposed under State administrative licensing revocation systems (not the criminal justice system) have resulted in reductions in alcohol-related fatalities of between 6 and 9 percent. According to a NHTSA study, Illinois, New Mexico, Maine, North Carolina, Colorado, and Utah experienced significant reductions in alcohol-related fatal crashes following enactment of administrative license revocation procedures. License sanctions deter repeat DWI offenders from driving. Although many continue to drive without a license, it is believed that those who do drive tend to drive less frequently or at least more carefully. For further information about license sanctions, see NHTSA's *State Legislative Fact Sheet-Administrative License Revocation*.

A variety of vehicle sanction programs have been used successfully. California's vehicle impoundment program resulted in substantially fewer subsequent offenses, convictions, and crashes for repeat offenders involved with the program (which included non-DWI/DUI offenses) compared with another control group of repeat offenders. One study of interlock devices in Maryland found that participation in an interlock program decreased the risk of DWI/DUI recidivism by 65 percent.

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Vehicle sanctions prevent many repeat DWI offenders from driving by either separating them from their vehicles or requiring them to be alcohol-free when they drive. For more information about vehicle sanctions, see NHTSA's *State Legislative Fact Sheet - Vehicle and License Plate Sanctions*.

Programs that focus on individuals' alcohol-related behavior also have been successful. Milwaukee's Intensive Supervision Probation program, which includes monitoring of behavior, has cut recidivism by nearly 50 percent (from 11 percent to 6 percent). A study of a financially self-sufficient DWI facility in Prince George's County, Maryland, where residents pay for their stay, showed that its recidivism rate during a 5-year period was 8 percent, compared with 35 percent for other programs.

A "DUI Court," modeled after the Drug Court model, is being evaluated in Maricopa County (Phoenix) Arizona. This evaluation is using a random assignment design where repeat offenders, after serving three months of hard jail time, are being randomly assigned to a special DUI Court, or to traditional probation services. The DUI Court is a special form of intensive supervision that involves both the judge and the local probation department that provides close supervision of offenders. Completion of this study, jointly funded with the Department of Justice, is expected in 2003.

## Section 164 of 23 U.S.C.

Section 164 of 23 U.S.C. requires that States have certain repeat intoxicated driver laws; if not, a portion of the State's annual Federal-aid highway construction funds will be redirected into the State's Section 402 highway safety program to be used for alcohol-impaired driving countermeasures, or for enforcement of anti-drunk driving

laws. Alternatively, the State may elect to use the funds for the State's hazard elimination program, under Section 152.

To comply with Section 164, the State's laws regarding second and subsequent convictions for driving while intoxicated or driving under the influence of alcohol (DWI/DUI) must:

- Require a minimum one-year driver's license suspension for repeat intoxicated drivers;
- Require that all motor vehicles of repeat intoxicated drivers be impounded or immobilized for a specified period when the license is suspended, or require the installation of an ignition interlock system on all motor vehicles of such drivers for a specified period after the suspension is completed;
- Require mandatory assessment of repeat intoxicated drivers' degree of alcohol abuse and referral to treatment as appropriate; and
- Establish a mandatory minimum sentence for repeat intoxicated drivers:
  - ◆ Of not less than five days of imprisonment or 30 days of community service for the second offense; and
  - ◆ Of not less than 10 days of imprisonment or 60 days of community service for the third or subsequent offense.

Under the program, a repeat intoxicated driver is defined as a driver convicted of driving while intoxicated or driving under the influence of alcohol more than once during any five-year period. Therefore, States must maintain records on driving convictions for DWI/DUI for at least five years. To avoid the transfer of funds, States must certify that their laws comply with each of the criteria specified above.

The redirection amount for States not in compliance is 1.5 percent of certain State Federal-aid highway construction

funds for fiscal years 2001 and 2002, and 3 percent for fiscal year 2003 and later.

The following 32 States and the District of Columbia have met the requirements of Section 164: Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Idaho, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin.

## Information Sources

*State Legislative Fact Sheet-Vehicle and License Plate Sanctions*. NHTSA, January 2002.

*State Legislative Fact Sheet-Administrative License Revocation*. NHTSA, January 2002.

Beck, Kenneth H., et al. *Effects of Alcohol Ignition Interlock License Restrictions on Multiple Alcohol Offenses: A Randomized Trial in Maryland*. American Journal of Public Health, Vol. 89, No.11, 1696-1700 (November 1999)

*California Impounds The Vehicles of Motorists Caught Driving Without A Valid License*. Traffic Tech, No. 180, July 1998.



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